

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**IN RE RONALD JOSEPH BIRINGER:**

**Civil No.: 3:09MC4**

**REPLY OF R. J. BIRINGER CONSTRUCTION CO. INC. TO PETITIONER  
SHEARIN'S MOTION TO UNSEAL FILE**

Comes now R. J. Biringer Construction Co., Inc., by counsel, and for its response to the *Memorandum Describing and Explaining Information Sought Regarding the Prosecution of Ronald J. Biringer* filed on behalf of Tyquan Shearin ("Shearin") in support of the Motion to Unseal previously filed herein, states the following:

1. It agrees that R. J. Biringer Construction Co., Inc. ("Biringer Construction") is a named defendant in three separate civil state court actions in the Circuit Court of the City of Richmond as set forth in the Motion to Unseal. Ronald J. Biringer ("Biringer") is the president of Biringer Construction and an owner.
2. Mr. Biringer has not been named individually as a defendant in any the state court civil actions and has not entered an appearance by separate personal counsel. Nonetheless, as the president and principal working owner of Biringer Construction, Mr. Biringer has effectively become the face and voice of the defendant Biringer Construction for purposes of the state court actions and he is the designated representative of the company.
3. In the course of discovery in the various state court actions it has come to light that Mr. Biringer was involved in a certain federal court matter relating to his business as alluded to by the Petitioner.

4. A discovery impasse was first reached in December of 2008 during the course of Mr. Biringer's discovery deposition when he was asked questions relating to the employment and immigration status of some of his current or former employees. This testimony was objected to by counsel for Biringer Construction on the grounds of relevance and also for fear of being in violation of certain legal agreements and orders of this Court.

5. In addition to the deposition objections, additional objections have been lodged to various written discovery requests made to Biringer Construction requesting the same or similar information in response to interrogatories and requests for production of documents.

6. All of these objections were made after consultation with both civil and criminal counsel. Mr. Biringer fears that answering such discovery will potentially expose him to civil and/or criminal sanctions to include fine or imprisonment and desires that this Court provide such clarification and guidance on the matter as it can so as to allow him to comply in a timely manner with the Order of Judge Taylor of the Circuit Court of the City of Richmond.

7. Upon review of the various discovery requests and the Motion and Memorandum filed on behalf of the Plaintiff in this Court, Mr. Biringer suggests that both the scope of the requested information and the requested information itself as set forth in those pleadings has significantly exceeded the original questions asked of him at the deposition and the individual written discovery requests themselves and he asks that any Order entered by this Court not exceed the scope of the Order entered by the Richmond Circuit Court.

8. Mr. Biringer notes further that Paragraph 1 of the plaintiff's Memorandum apparently seeks to have this Court enter a ruling mandating or prohibiting specific actions by him, presupposes an improper motive on his part in seeking to avoid supplying the contested discovery answers, and essentially asks this Court to render a discovery ruling on the particulars

of the state court action rather than rule whether or how much to unseal a particular file and what areas of general inquiry Mr. Biringer may safely respond to without fear of penalty for violating an order of this or another Court.

9. Without admitting the truth of the contents of either Petitioner's Motion or Memorandum, either factually or by way of argument, Biringer Construction and Mr. Biringer pray that this Court enter no Order to its or his detriment and request this Court provide a written opinion or written Order which can be presented to the judge of the Richmond Circuit Court.

Respectfully submitted,

R.J. BIRINGER CONSTRUCTION CO., INC.

By: \_\_\_\_\_/s/\_\_\_\_\_  
Counsel

Mark C. Nanavati, Esquire (VSB #38709)  
S. Michael Glass, Esquire (VSB# 15002)  
Attorney for Respondent R.J. Biringer Construction Co., Inc.  
SINNOTT, NUCKOLS & LOGAN, P.C.  
13811 Village Mill Drive  
Midlothian, Virginia 23114  
(804) 378-7600  
(804) 378-2610 (fax)  
[mnnavati@snllaw.com](mailto:mnnavati@snllaw.com)  
[sglass@snllaw.com](mailto:sglass@snllaw.com)

#### **CERTIFICATE OF SERVICE**

I hereby certify that on this 16<sup>th</sup> day of April, 2009, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Craig B. Davis, Esquire  
EMROCH & KILDUFF, LLP  
3600 West Broad Street, Suite 700  
P. O. Box 6856  
Richmond, Virginia 23230-0856  
[cdavis@emrochandkilduff.com](mailto:cdavis@emrochandkilduff.com)

*Counsel for Petitioner Tyquan Shearin*

E. Lewis Kincer, Jr., Esquire  
Macaulay & Burtch, P.C.  
1015 East Main Street, Second Floor  
Richmond, Virginia 23219  
[LKincer@macbur.com](mailto:LKincer@macbur.com)  
*Counsel for First Liberty Insurance Corp.*

And, I hereby certify that I will mail the document by U.S. Mail to the following non-filing users:

Charles H. Cuthbert, Jr., Esquire  
Cuthbert Law Offices  
A Professional Corporation  
220 North Sycamore Street  
Petersburg, Virginia 23803-3228  
*Counsel for Petitioners Ragsdale and Jones*

Henry M. Massie, Jr., Esquire  
Taylor & Walker, P.C.  
P.O. Box 6649  
Richmond, Virginia 23230  
*Counsel for Erie Insurance Exchange*

Jennifer Lee Parrish, Esquire  
Parrish, Houck & Snead, PLC  
P.O. Box 7166  
Fredericksburg, Virginia 22404  
*Counsel for Defendant Garcia-Hernandez*

Jayne B. Randall, Esquire  
GEICO Insurance Companies  
301 Concourse Blvd, Suite 330  
Glen Allen, VA 23059  
*Counsel for GEICO*

John Gilbody, Esquire  
Geoffrey R. McDonald & Associates  
3315 West Broad Street  
Richmond, Virginia 23230  
*Counsel for Mark Johnson*

Trent S. Kerns, Esquire  
Allen, Allen, Allen & Allen  
9509 Hull Street Road  
Richmond, Virginia 23236  
*Counsel for Victoria Delaney*

Sara E. Chase, Esquire  
Assistant U.S. Attorney  
U.S. Department of Justice  
1800 East Main Street Centre  
600 East Main Street  
Richmond, Virginia 23219

\_\_\_\_\_  
/s/

Mark C. Nanavati, Esquire (VSB #38709)  
S. Michael Glass, Esquire (VSB# 15002)  
Attorney for Respondent R.J. Biringer Construction Co., Inc.  
SINNOTT, NUCKOLS & LOGAN, P.C.  
13811 Village Mill Drive  
Midlothian, Virginia 23114  
(804) 378-7600  
(804) 378-2610 (fax)  
[mnnavati@snllaw.com](mailto:mnnavati@snllaw.com)  
[sglass@snllaw.com](mailto:sglass@snllaw.com)